

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA**

SOPHIA S. HOUR,

Plaintiff,

v

**MEIJER STORES LIMITED
PARTNERSHIP,**

Defendant.

Hon.

File No.

Thomas M. Miller (P37746)
Senior Counsel- Labor & Employment
Meijer Legal Department
2929 Walker Avenue, N.W.
Grand Rapids, MI 49544
616-791-3007
tom.miller@meijer.com
Attorney for Defendant

Samuel L. Bolinger, #10786-98803
S. Calhoun St., Ste. 300
Fort Wayne, IN 46802
260-407-0040
Fax: 260-407-0039
Attorney for Plaintiff

NOTICE OF REMOVAL

Defendant Meijer Stores Limited Partnership (incorrectly sued "Meijer 125") hereby removes Case No. 02D09-16-CT-000288 filed in the Allen County Superior Court and entitled *Sophia S. Hour v Meijer 125*, to the United States District Court for the Northern District of Indiana, pursuant to 28 U.S.C. Sections 1441 and 1446. The grounds for the removal of this state court action are set forth below.

1. On or about June 8, 2016, Plaintiff Sophia S. Hour commenced this action in the Allen County Superior Court.

2. Defendant Meijer Stores Limited Partnership was served with the summons and complaint on or about June 20, 2016. A copy of the summons and complaint is attached as Exhibit

A. These pleadings constitute the entire proceedings in this action to date.

3. This Notice of Removal is filed within 30 days after receiving the summons and complaint.

4. This is an employment action in which Plaintiff has filed a complaint alleging discrimination because of her National Origin (Cambodian) and sex (female) in violation of Title VII; disabilities in violation of the American with Disabilities Act of 2008 as amended; and age (46) and, in violation of the Age Discrimination in Employment Act of 1967 as amended.

5. This action is removable to this court pursuant to 28 U.S.C. Section 1441 (a) and (c) in that the United States District Court has original jurisdiction pursuant to 28 U.S.C. Section 1331 (federal question).

6. Because Plaintiff's complaint states a cause of action arising under 4 U.S.C. Section 3330(a), the District Court has original jurisdiction pursuant to 28 U.S.C. Section 1331.

8. Copies of this notice have been served on Plaintiff and filed with the clerk of the Allen County Superior Court.

Respectfully submitted,

Dated: July 12, 2016

/s/Thomas M. Miller
Thomas M. Miller (P37746)
Attorney for Defendant

STATE OF INDIANA)
)§:
COUNTY OF ALLEN)

IN THE ALLEN COUNTY ~~CLERK~~ COURT

CAUSE NO.:

02009- 16 06 - CT - 000280

SOPHIA S. HOUR,)
)
Plaintiff,)
)
vs.)
)
MEIJER 125,)
5909 Illinois Rd.)
Fort Wayne, IN 46804)
)
Defendant.)

COMPLAINT AND JURY DEMAND

COMES NOW, Plaintiff, Sophia S. Hour, by counsel, Samuel L. Bolinger, and files her complaint and jury demand, against Defendant Meijer 125, and alleges:

1. This is a complaint for gender, national origin, age and disability discrimination.
2. Plaintiff, Sophia S. Hour, is an adult female resident of the City of Fort Wayne, County of Allen, State of Indiana, and at time herein was an employee of Defendant, Meijer 125.
3. Defendant, Meijer 125, is a retail store owned and operated by Meijer, Inc., with the headquarters located at 2929 Walker Ave., NW, Grand Rapids, Michigan 49544, and is authorized to do business in the State of Indiana, via Defendant Meijer Store 125, located at 5909 Illinois Rd., Fort Wayne, Allen County, Indiana 46804, and has over 1000 employees in a calender and proceeding calender year and engages in interstate commerce, and is subject to Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, as amended, the Age Discrimination in Employment

Act.

4. The charge of discrimination was filed on July 7, 2015, which is attached as Exhibit A.
5. A notice of right to sue was issued on April 21, 2016, which is attached as Exhibit B, and said complaint was timely filed.
6. Plaintiff alleges as follows:
 - a. She is qualified disabled Cambodian female, age forty-six (46), who worked at Defendant from March 31, 1994 until her termination on June 30, 2015.
 - b. Plaintiff contends that Defendant management terminated her because they knew she would be taking time off soon due to her disabilities, hiring younger people because the store manager perceives Plaintiff as incompetent.
 - c. Plaintiff further contends, that her accent makes it harder for the store general manager to understand her and makes her think that she doesn't know how to do her job.
 - d. Plaintiff's direct supervisor is very had on her and asked Plaintiff a lot of questions about Plaintiff's disability, and she would not have done this if Plaintiff was a male.
 - e. Additionally, Plaintiff contends that because of her National Origin, Cambodian, female gender, she has been discriminated against under Title VII, as well as due to her disabilities in violation of the American with Disabilities Act of 2008 as amended, and because of her age 46, in violation of the Age Discrimination in Employment Act of 1967, as amended.
7. As a proximate result of the above described conduct, Plaintiff has lost her employment,

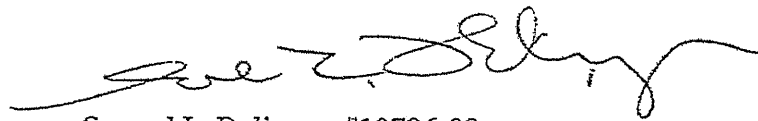
job related benefits, and has been subjected to and suffered mental anguish,
embarrassment, humiliation and injured in a dollar amount yet to be determined.

WHEREFORE, Plaintiff moves the court for compensatory damages, reasonable attorney fees, and for all other just and proper relief.

JURY DEMAND

Plaintiff demands a trial by jury in said cause, pursuant to Indiana Trial Rule 38.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Samuel L. Bolinger', with a long horizontal flourish extending to the left.

Samuel L. Bolinger, #10786-98
803 S. Calhoun St., Ste. 300
Fort Wayne, IN 46802
Tel: 260.407.0040
Fax: 260.407.0039
Counsel for Plaintiff

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: _____ Agency(ies) Charge No(s): _____ <input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
City of Fort Wayne Metro Human Relations Commission		EC-0149-A15 24D-2015-00368	
State or local Agency, if any _____ and EEOC			

Name (indicate Mr., Ms., Mrs.) Sopha S. Hour		Home Phone (Incl. Area Code) (260) 466-3053	Date of Birth 02-20-1969
Street Address 2812 Jacobs Creek Run, Fort Wayne, IN 46825			

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)		
Name MEIJER 125	No. Employees, Members Unknown	Phone No. (Include Area Code)
Street Address 5909 Illinois Rd, Fort Wayne, IN 46804		

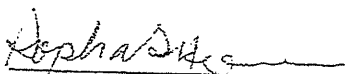
Name	No. Employees, Members	Phone No. (Include Area Code)
Street Address		

DISCRIMINATION BASED ON (Check appropriate box(es)) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) _____	DATE(S) DISCRIMINATION TOOK PLACE Earliest: 10-01-2014 Latest: 06-30-2015 <input type="checkbox"/> CONTINUING ACTION
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THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I am a qualified disabled, Cambodian, female, age forty-six (46) who worked at Meijer from March 31, 1994 until my termination on June 30, 2015. I believe that management terminated me because they knew I would be taking time off soon due to my disabilities, because they are hiring younger people and because the store manager perceives me as incompetent. I believe that my accent makes it harder for him to understand me and makes him think that I don't know how to do my job. My direct supervisor was also very hard on me and asked me a lot of questions about my disability, I do not believe she would have done this if I were a male.

Because of these things, I feel I have been discriminated against due to my national origin, Cambodian, and sex, female, in violation of Title VII of the Civil Rights Act of 1964, as amended. I also feel I have been discriminated against due to my disabilities in violation of Americans with Disabilities Act Amendments Act of 2008. Lastly, I feel I have been discriminated against based on my age, 46, in violation of the Age Discrimination in Employment Act of 1967, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.	NOTARY - When necessary for State and Local Agency Requirements
I declare under penalty of perjury that the above is true and correct.	I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT
Jul 07, 2015  Date _____ Charging Party Signature _____	SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day year)

DISMISSAL AND NOTICE OF RIGHTS

✓ To: Sopha S. Hour
2812 Jacobs Creek Run
Fort Wayne, IN 46825

From: Indianapolis District Office
101 West Ohio St
Suite 1900
Indianapolis, IN 46204

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

24D-2015-00368

Frederick J. BruBaker,
Supervisor

(317) 226-7350

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Webster N. Smith
Webster N. Smith,
Director

APR 21 2016

(Date Mailed)

Enclosures(s)

cc:

Vicki L. Vanden Berg
Paralegal
MEIJER
Meijer Legal Dept
2929 Walker Avenue NW
Grand Rapids, MI 49544

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FOR THE NORTHERN DISTRICT OF INDIANA

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S. Calhoun St., Ste. 300
Fort Wayne, IN 46802
260-407-0040
Fax: 260-407-0039
Attorney for Plaintiff

NOTICE OF FILING NOTICE OF REMOVAL

I hereby certify that on July 13, 2016, I served a copy of Defendant Meijer Stores Limited Partnership's Notice of Removal with Exhibits and Appearance, by first class mail with postage fully prepaid on:

**Samuel L. Bolinger,
S. Calhoun St., Ste. 300
Fort Wayne, IN 46802**

and electronically filed same with the clerk of the court using the EFC system

By: /s/Thomas M. Miller
Thomas M. Miller (P37746)
Attorney for Defendant